

FARAD CONTINUATION SHEET NO.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY BENCH AT AURANGABAD**

**WRIT PETITION NO. 2871 OF 2012**

**"Dr. Percy s/o. Savakshaw Jilla Vs. The State of Maharashtra and others."**

Office Notes, Office Memoranda of Coram appearances, Court's Orders	Court's or Judge's orders or directions and Registrar's orders.
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Mr. Rajendra S. Deshmukh, Advocate for petitioner.  
Mr. S.K. Kadam, AGP for respondent Nos. 1 to 4.  
Mr. N.B. Khandare, Advocate for respondent Nos. 5 and 6.

CORAM :- B.R. GAVAI &  
SUNIL P. DESHMUKH, JJ.

DATE :- 29TH MARCH, 2012.

PER COURT :-

- 1] Notice returnable 2 weeks.
- 2] Shri S.K. Kadam, AGP waives notice for respondent Nos. 1 to 4.
- 3] Shri N.B. Khandare, Advocate waives notice for respondent Nos. 5 and 6.
- 4] Heard learned counsel on the question of interim relief. The impugned action against the petitioner is sought to be taken on the basis of the general circular issued by the State Family Welfare Bureau, which, in turn, has been issued on the basis of the judgment of the Division Bench of this court in the case of "Radiology and Imaging Association Vs. Union of

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India"(WP No. 797 of 2011) dated 26<sup>th</sup> August, 2011. Perusal of the said judgment would reveal that the subject matter before the Division Bench in the said case was, regarding the ultra-sonography machines. The challenge before the court was regarding the instructions of the Collector and District Magistrate, Kolhapur, requiring the ultra-sound clinics to submit information in form "F" and to install silent observer on the ultrasound sonography machines.

5] It is common knowledge that restrictions on use of ultrasound machines is due to the fact that the said machines are widely used for pre-natal detection of sex. However, though the communication impugned in the petition is with reference to portable sonography machines, it directs the petitioner not to use portable echo colour doppler to any other institute and it should be used only at the center at which it is registered. The Echo colour doppler machine is used for diagnosis of ailments related to heart . The petitioner specifically admits that it has 3 machines registered, out of which, two are sonography machines which are used by his wife and further it is submitted that he is not seeking any relief in regard to those 2 machines and has filed the present petition only for a relief in so far as Echo Colour Doppler machine is concerned.

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6] Since we prima-facie find that the judgment of the Division Bench is only applicable to ultra sonography machines, we are inclined to grant ad-interim relief in terms of prayer clause (F). However, it is made clear that the petitioner or his wife would not be permitted to use the ultra sonography machines outside the registered hospital and further that the petitioner shall also use the silent observer while using the echo colour doppler machine.

grt/-

[SUNIL P. DESHMUKH,J.]

[B.R. GAVAI, J.]